



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,907	08/21/2003	Hans Boeck	Q74473	6445
23373	7590	05/06/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			MCCALL, ERIC SCOTT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,907

Applicant(s)

BOECK ET AL.

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/21/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

TEST STAND WITH TIPPING DEVICE FOR MOTOR VEHICLES

FIRST OFFICE ACTION

CLAIMS

35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention because claim 7 suggests that the piston rods extend and retract. However, such a limitation has not been set forth earlier in the claim.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention because the phrase “Electronic Stability Control test stand” is indefinite as to the proper meaning thereof. Such a definition has not been set forth by the Applicant.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Claps (5,890,855).

With respect to claim 1, Claps teaches a stand for motor vehicles, having a tipping device (fig. 35) comprising:

a lower frame unit (514);

an upper frame unit (520) configured to tip relative to the lower frame unit; and

four lifting units (512 & 516) disposed in corner zones of the frame units.

It is noted that the phrase “test stand” as appearing in line 1 of claim 1 has not been given patentable weight because said phrase appears in the preamble of the claim wherein the body of the claim does not rely upon that phrase for completeness.

With respect to claim 2, Claps teaches the lower frame unit (514) and the upper frame unit (520) are interconnected exclusively via the lifting units (512 & 516).

The prior art’s “lifting units” are also interpreted as including the diagonal braces “560”.

With respect to claim 8, Claps suggest the claimed subject matter thereof (fig. 35).

With respect to claim 9, the lifting units of Claps are interpreted as being controlled with a control terminal via a central control unit as claimed because, although Claps has set forth various ways of lifting, all of the ways have what is interpreted as “central control unit”.

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claps (5,890,855).

With respect to claim 3, Claps does not specifically teach “piston rods”. However, it would have been obvious to one having ordinary skill in the art to interpret the columns (512 & 516) of Claps as being the “piston rods” as claimed. The motivation being that the Applicant has merely termed the claimed rods as “piston rods” and has set forth no other structure which suggests that the piston rods are pistons associated with a cylinder as is well known in the art. As

such, the columns (512 & 516) of Claps are associated with the four lifting units and extend through conical holes in the lower frame unit as is claimed by the Applicant.

With respect to claim 4, Claps suggests conical frames (556) along the outer circumferences of the piston rods wherein each conical frame forms a connection between the piston rod (512 or 516) and the lower frame unit (514) when the conical frames are retracted (ie. the upper frame unit is lowered and the frames (556) rest within the lower frame unit.

With respect to claim 5, Claps fails to explicitly teach the piston rods connected to the upper frame unit via spherical bearings as claimed.

However, if not inherent, it would have been obvious to one having ordinary skill in the art to connect the two using spherical bearings.

The motivation being that although the prior art is silent with respect to such bearings, the connection of such units via spherical bearings is very well known and commonly used within the art because the failure to use such bearings would lead to premature wear.

With respect to claim 6, fig. 35 suggests the claimed subject matter thereof.

With respect to claim 10, although Claps does not specifically teach an electronic stability control test stand as claimed, it would have been obvious to one having ordinary skill in the art armed with said teaching to use said teaching as a test stand. The motivation being that

Art Unit: 2855

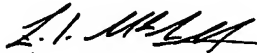
since Claps discloses lifting and maintaining a vehicle from the ground level, one having ordinary skill in the art could inspect or maintain said vehicle will in the lifted position just as with a lift specifically used for such purposes. Furthermore, the teaching of Claps is interpreted as electronically stable.

RELEVANT ART

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record and not relied upon but considered pertinent to the state of the art of the Applicant's disclosure.

CONCLUSION

Any inquiry concerning this communication should be directed to Eric S. McCall at telephone number (571) 272-2183.


Eric S. McCall
Primary Examiner
Art Unit 2855
April 30, 2004